

Federal Communications Commission

DA 95-1836

FCC MAIL SECTION

AUG 29 11:47 AM '95 Before the
Federal Communications Commission
Washington, D.C. 20554

DISPATCHED BY

MM Docket No. 94-62

In the Matter of

Amendment of Section 73.202(b), RM-8444
Table of Allotments, RM-8512
FM Broadcast Stations.
(Kasilof and Anchorage, Alaska)¹

REPORT AND ORDER
(Proceeding Terminated)

Adopted: August 18, 1995; Released: August 25, 1995

By the Chief, Allocations Branch:

1. The Commission considers herein the *Notice of Proposed Rule Making*, 9 FCC Rcd 3047 (1994), issued in response to a petition filed on behalf of William Glynn ("petitioner") proposing the allotment of FM Channel 229A to Kasilof, Alaska, as that community's first local aural transmission service. Petitioner filed supporting comments in response to the *Notice*. Christian Broadcasting, Inc. ("CBI")² filed a counterproposal.³ Petitioner and CBI each filed reply comments. Petitioner also filed supplemental comments.⁴

2. CBI counterproposed the allotment of Channel 229C2 to Anchorage. In support of its proposal CBI urges that Channel 229C2 is the only channel available to provide Anchorage with a new FM service consistent with the technical requirements of Sections 73.207(b)(2) and 73.315

of the Commission's Rules, and suggested that compliance could be attained at a restricted site located 18 kilometers (11 miles) southeast of the community at coordinates 61-04-02 and 149-44-36.⁵ However, in an effort to accommodate the petitioner's desire to provide a first local aural transmission service to Kasilof, CBI suggests that Channel 233A can be allotted to that community without a site restriction. In this manner, CBI urges that the goals of Section 307(b) of the Communications Act of 1934, as amended, would be advanced by providing a new broadcast service to each community.

3. Petitioner objects to CBI's proposed option to allot Channel 233A to Kasilof, since its use would be limited by first adjacent Channel 232A at Houston, Alaska, thereby effectively foreclosing either community from future expansion of service. Therefore, petitioner suggests consideration of Channel 289A or Channel 295A instead, and commits to apply for a license on either channel.⁶

4. Based upon the information presented, we will allot Channel 295A to Kasilof, Alaska, as that community's first local aural transmission service. Additionally, in response to the counterproposal presented by CBI, we will allot Channel 229C2 to Anchorage, Alaska, to provide an additional FM service at that community. Channel 295A can be allotted to Kasilof without the imposition of a site restriction at coordinates 60-20-15 and 151-16-20. Additionally, Channel 229C2 can be allotted to Anchorage consistent with the minimum distance separation requirements of Section 73.207(b)(2) of the Commission's Rules, provided the transmitter therefor is sited at least 18 kilometers (11 miles) southeast of the community at coordinates 61-04-02 and 149-44-36.⁷ Moreover, potential applicants for Channel 229C2 are advised of the necessity to conform their applications with the technical requirements of Section 73.1030(c)(1)-(5) of the Commission's Rules regarding protection to the Commission's monitoring station at Anchorage, Alaska.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections

¹ The community of Anchorage, Alaska, has been added to the caption.

² CBI is the licensee of noncommercial educational Station KATB(FM), Channel 207C3, Anchorage.

³ Public Notice of the counterproposal was given on September 7, 1994, Report No. 2028, and corrected on September 27, 1994.

⁴ These comments were filed after the record closed and were not accompanied by a motion to accept. However, they have been accepted for consideration herein since they provide the Commission with information regarding another available channel at Kasilof to satisfy the petitioner's desire to provide a first local aural service to that community.

⁵ Petitioner advises that the referenced coordinates define the licensed site of Station KATB(FM).

⁶ Although petitioner initially suggested consideration of Channel 290A for allotment to Kasilof instead of Channel 233A, he asserts that he was unaware of its allotment at Seward, Alaska, which would preclude future expansion on that frequency at either community. Therefore, petitioner asserts that the basis of the proposal contained in his reply comments has been fundamentally altered. Consequently, petitioner requests consideration of either Channel 289A or Channel 295A for allotment to Kasilof to accommodate his desire to provide a first local aural transmission service to that community. We have selected Channel 295A for consideration since it will afford maximum use of the frequency at Kasilof.

⁷ As indicated in footnote 5, *supra*, the reference coordinates specified herein denote the site of noncommercial educational Station KTAB(FM). However, as the addition of a new channel at a community requires that the allotment be made available for competing applications, CBI will have no greater rights to apply for Channel 229C2 than other potential applicants. Moreover, CBI advises that sufficient area is available within the referenced area for the selection of a transmitter site from which compliance with the technical requirements of the Commission's Rules may be accommodated.

⁸ We recognize that the proposed allotment of Channel 229C2 at Anchorage is 25.6 kilometers (16 miles) short-spaced to the site specified in the one-step application of Station KADX(FM), for Channel 232C2, Houston, Alaska, (File No. BMPH-94100071G), specifying coordinates 61-20-10 and 149-30-43. However, as the referenced application was filed after the deadline established for filing counterproposals in this proceeding, it must be considered a site preference only. See *Andalusia, Alabama*, 49 FR 32201 (1984). See also *FM Channel and Class Modifications by Application*, 8 FCC Rcd 4735 (1993) at para. 18; *Conflicts Between Applications and Petitions for Rule Making to Amend the FM Table of Allotments*, 7 FCC Rcd 4917 (1992), *recon. granted in part*, 8 FCC Rcd 4743 (1993). A copy of this Report and Order will be served on the permittee of Station KADX(FM).

0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **October 10, 1995**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with regard to the communities listed below, as follows:

City	Channel No.
Anchorage, Alaska	225C, 229C2, 247C1, 251C1, 255C1, 263C3, 267C2, 271C3, 276C2, 281C1, 287C1, 293C, 298C1
Kasilof, Alaska	295A

6. The window period for filing applications for Channel 229C2 at Anchorage, Alaska, and for Channel 295A at Kasilof, Alaska, will open on **October 10, 1995** and close on **November 13, 1995**.

7. IT IS FURTHER ORDERED, That the Secretary of the Commission SHALL SEND a copy of this *Report and Order* by Certified Mail, Return Receipt Requested to the permittee of Station KADX(FM), Houston, Alaska, as follows:

Chester P. Coleman
1255 Post Street
Suite 625
San Francisco, CA 94109

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 229C2 at Anchorage, Alaska, and for Channel 295A at Kasilof, Alaska, should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau